

Internal Revenue Service

Department of the Treasury

District
Director

Person to Contact:

Telephone Number:

Refer Reply to:

Date: NOV - 4 1997

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

You were incorporated under the laws of [redacted] on [redacted]. Your stated purposes are to 1) assist in the feeding of [redacted] children; 2) to supervise the administration of State and Federal funds for the care and feeding of [redacted] children; 3) and to engage in any lawful business or activities related thereto; and 4) to engage in any lawful act or activity for which corporations may be organized under the [redacted] Corporation Act and all functions relating to said purposes which includes the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 or any subsequent or future corresponding United States Internal Revenue Law.

Your Articles were amended on [redacted] to correct defects in your Articles, needed to meet the organizational test for Section 501(c)(3).

Your activities include the administration of the [redacted] for [redacted] and [redacted]. You provide three nutrition related training sessions per year. On a monthly basis, your inspector reviews all receipts for food purchases, the number of [redacted] served, and menu content. Four to eight hours are spent each month on each provider for monitoring and paperwork related to reimbursement.

Your governing body consists of a director, an assistant director and a secretary. Your director is the owner of one of the sponsored day care providers.

Your only source of income is from the [redacted] of [redacted]. Your only expense has been the purchase of food and non-food items for your program.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax for organizations organized and operated exclusively for charitable, educational, religious, or scientific purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order for an organization to be exempt under section 501(c)(3) of the Code it must be organized and operated exclusively for one or more purposes specified in such section.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization is operated exclusively for the purposes set out in section 501(c)(3) of the Code only if substantially all of its activities are in furtherance of these purposes.

Section 1.501(c)(3)-1(d)(ii) of the Regulations states that an organization is not organized or operated for any purpose under section 501(c)(3) unless it serves a public rather than a private interest.

Thus to meet the requirements of this subsection, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family shareholders of the organization, the personal business interests of a founder, or persons controlled, directly or indirectly, by such interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purposes if more than an insubstantial part of its activities serve a private interest.

A [REDACTED] does not qualify for exemption merely because its activities further exempt purposes. Such organizations must be organized and operated for public purposes rather than private benefit.

The data you provided indicates that you are serving the private interests of your director and her [REDACTED] and are not operated exclusively for exempt public purposes as required by Internal Revenue Code section 501(c)(3), and Income Tax Regulations 1.501(c)(3)-1(d)(1)(ii). Therefore based on the information provided, you do not qualify for exemption under section 501(c)(3).

You are required to file Federal income tax returns on Form 1120.

A copy of this letter will be sent to the appropriate state officials in accordance with section 6104(c) of the Internal Revenue Code.

If you do not agree with our determination, you may request consideration of this matter by the office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892.

Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

Sincerely yours,



Paul M. Harrington
District Director
Southeast Key District

cc: Enclosure 892
State Attorney General (GA)